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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/898,255	07/03/2001	Kevin Thomas	88265-4040	1910

28765 7590 07/10/2003

WINSTON & STRAWN  
PATENT DEPARTMENT  
1400 L STREET, N.W.  
WASHINGTON, DC 20005-3502

EXAMINER

ST CYR, DANIEL

ART UNIT	PAPER NUMBER
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2876

DATE MAILED: 07/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

AD

# Office Action Summary

Application No.

09/898,255

Applicant(s)

THOMAS ET AL.

Examiner

Daniel St.Cyr

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 08 April 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-4,6 and 8-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4,6 and 8-34 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 10. 6) ☐ Other: \_\_\_\_\_

### DETAILED ACTION

1. Receipt is acknowledged of the amendment filed 4/08/03.

#### *Claim Objections*

2. Claims 21-29 are objected to because of the following informalities: the claims are either directly or indirectly dependent from claim 1, they should begin as follows: The method of claim 1/21/25//26/ or /28. Appropriate correction is required.

#### *Claim Rejections - 35 USC § 102*

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-3, 6, 8-13, 18-21, and 24-27 are rejected under 35 U.S.C. 102(e) as being anticipated by Ishikawa et al, EP Patent No. 1,174,667.

Re claims 1, 12, 13, Ishikawa et al disclose an automatic refrigerator system, refrigerator, automatic cooking system and microwave oven comprising: a receptacle 41 having at least one wall member that defines an enclosure, a food-forming product 21 present within the enclosure, and a tag 11 associated with the food-forming product and package 22a, wherein the tag 11 includes machine-readable information regarding the product which information is programmed at the manufacturing plant and includes instructions or verification code in electronic form for controlling at least one of preparation of a food from the food-forming product in a dispenser 32; and a reader 12 for reading the RFID tag 11 wherein the information

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read is submitted into a database 41 for verifying and obtaining cooking information (see figures 11-13 and col. 21, line 11+).

Re claim 2, wherein the tag is affixed to an exterior surface of the package (see figure 12).

Re claim 3, wherein the tag is an RFID device (see col. 24, lines 46-47).

Re claim 6, wherein the tag includes a date of expiration in electronic form for the product (see col. 22, line 55).

Re claims 8 and 9, wherein the food provides single/multiple-serving portions (the number of portions is not limited) (see col. 22, line 53).

Re claim 10, wherein the verification code is an expiration data from the date when the package is opened (when the food is opened, the user consumes a portion and stores the remaining portion in the dispenser with the time to consume it).

Re claim 11, wherein the food-forming product is a concentrate (see col. 24, line 5).

Re claims 18-20, in addition to the limitations discussed above, the information is sorted to determine consumption pattern and supply source so as to re-supply when needed. (see figure 8 and col. 13, lines 1-9).

Re claim 21, the limitation has been met above.

Re claim 22, wherein the package is composed of a non-conductive material and the tag is located within the enclosure (see figure 12 and col. 25, lines 12-14).

Re claims 24-27, the limitations have been met above.

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Re claim 28, in order for the dispenser to confirm that a food is within a prescribe consumption, it must be able to compare the current time with the expiration date. These limitation are inherent.

Re claims 29-34, the limitations have been met above.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 4, 14-17, and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ishikawa et al. The teachings of Ishikawa et al have been discussed above.

Re claims 4 and 23, Ishikawa fails to disclose or fairly suggest that tag is affixed to an interior surface of the package or the package is composed of conductive material.

However, such limitation falls within the engineering design choice.

It would have been obvious for an artisan at the time the invention was made to conceal the tag inside the package to protect the tag from accidental liquid spillage and compose the package with conductive material for enhancing communication between the reader and the tag. Therefore, it would have been an obvious extension as taught by Ishikawa et al.

Re claim 14-17, Ishikawa et al disclose using a database for storing food information wherein the tag is scanned to retrieve the information from the database, but fail to disclose or fairly suggest generating an error code to disable the dispenser and notifies an operator.

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However, since the tag is read to obtain information from a database, if the information in the tag cannot be verified or unreadable, a signal would be communicate to the operator in order to take the appropriate action. Regarding disabling the dispenser, the information is needed to operate the dispenser, therefore, the dispenser is disable until the information is obtained.

It would have been obvious for an artisan at the time the invention was made to generate an error code when the tag information cannot be verified or the tag is unreadable to notify the user for appropriate actions to process the food. Such modification would make the system more effective by providing means to rectify operation when problems occur. Therefore, it would have been an obvious extension as taught by Ishikawa et al.

#### ***Additional Remarks***

7. The Information Disclosure, filed 4/08/03, contains prior arts that are could be used to reject the claimed invention.

#### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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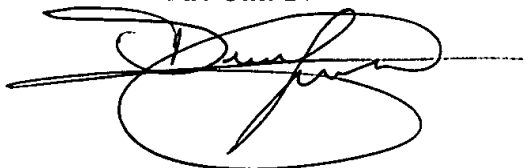
however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Daniel St.Cyr whose telephone number is 703-305-2656. The examiner can normally be reached on Mon-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G Lee can be reached on 703-305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-7721 for regular communications and 703-308-7724 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0956.

Daniel St.Cyr  
Primary Examiner  
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A handwritten signature in black ink, appearing to read 'Daniel St.Cyr', is written over a horizontal line. The signature is stylized with a large, looping 'D' and a long horizontal stroke extending to the right.

DS  
June 24, 2003